

**HIGHLAND PARK PLANNING BOARD
MINUTES
OCTOBER 15, 2020 @ 7:30 P.M.
Council Chambers, Borough Hall
221 South Fifth Ave. Highland Park, NJ
Via Zoom**

Call to Order

The October 15, 2020 regular meeting of the Highland Park Planning Board was held via Zoom, and was called to order by Kim Hammond at 7:30 PM. Annual Notice of this meeting was provided to The Star Ledger, Homes New Tribune and Highland Park Planet on January 13, 2020. In addition, notice of this meeting via zoom was faxed to The Home News Tribune and emailed to The Star Ledger and the Highland Park Planet on October 13, 2020 and was posted on the Borough website at www.hpboro.com and on the bulletin board at Borough Hall, 221 South Fifth Avenue, Highland Park, NJ on October 13, 2020 and has remained continuously posted as required by law.

Roll Call:

Present	Kim Hammond, Scott Brescher, Khahlidra Hadhazy, Matthew Hale, Rebecca Hand, Alan Kluger, Padraic Millet, Steve Nolan arrived at 8:26 pm, Jeffrey Perlman left the meeting at 8:52 pm, Allan Williams
Absent	Paul Lanaris
<u>Board Professionals</u>	Roger Thomas, Esq. Board Attorney, Chris Cosenza, Board Planner, Jim Constantine, Planner, and Bruce Koch, Borough Engineer

Action of any other business and work session.

Consistency Review: An Ordinance of the Borough of Highland Park, County of Middlesex Amending Chapter 230, Land Development Concerning Accessory Buildings, Garages and Home Occupation and Amending the “Code of the Borough of Highland Park”

Ms. Hammond said that this was introduced by the Borough Council and has been referred to the Board for consistency review.

Mr. Hale said as indicated previously this Ordinance has come about as result of people staying home, kids are home schooling due to COVID. It was crafted in a limited manner; the goal is to not have retail businesses but to give people additional space, it clearly states what amenities can be in the garage. The Borough received a number of inquires from residents about the uses permitted in their garages. When that was looked into and the current code reads that you were only permitted to use the garage for storage of a vehicles and very restrictive. Due to COVID people are in need of additional space but do recognize that after COVID that need for additional space is probably not going away. The Borough would like to allow people to use as much of their space as possible for work and home/recreational activities. This went to the Public Safety Committee and the Economic Development Committee and reviewed by the Professionals before being presented to Council. The Ordinance was well received by the Council and passed on first reading.

Mr. Constantine said that there was also some adjustments on home occupation allowing it to occur in a garage as an accessory use. The code as it exists indicates that a garage can only be used to store a vehicle.

Mr. Thomas said that the Boards job is to ensure that it is not inconsistent with the Master Plan. Recommendations can be made to the Borough Council.

Ms. Hadhazy asked about the language regarding the heating and air conditioning and asked if it needed to be more specific in terms of allowing people to have heating and air conditioning and what does that mean. What would trigger a property tax increase. What safety measures do people need to be aware of if they decide to use space heaters in an enclosed space and where they store flammable items. Councilman Hale said that the space heater safety tips would be an important notice but would defer to Mr. Constantine or Mr. Brescher if it would be apart of this ordinance.

Mr. Constantine indicated that it is optional, it may have electrical, sink, heat and/air-conditioning that all require a permit.

Ms. Hammond said that she was speaking about the safety aspect of it, and the other aspects of the code would cover permits, electrical etc.

Mr. Thomas indicated that if the types of things such as a sink, electrical, heat or air-conditioning, would defer to Mr., Brescher and Mr. Koch, those things would still be subject to permits, they would have to go the Building Office whether in the house or the garage, and this ordinance does not negate that requirement.

Mr. Millet said that by making the use legal it might also encourage people to make it more regulated so they might be better, right now you can go into your garage and do whatever and this would formalize what people are doing anyway. The fact that people are asking is a good thing. Ms. Hammond agreed.

Mr. Kluger said based on the way the ordinance is written, he could have a retail business in his garage, as long as there is no sign, and I run it myself along with my wife. He suggested adding language to indicate somewhere subject to these other rules otherwise someone could say it is their home occupation and its carry out for gain and they have no signage. Mr. Constantine said that home occupation reads today “an activity carried out for gain by a resident conducted as an accessory use in the residents dwelling”, and everything that was just discussed can occur legally today, and there are qualifiers under accessory use that have always been there.

Mr. Kluger said if we allowing academic, musical, religious instruction our intention is more for one on one, is it broad enough to allow someone to run a school. He said he knows people who are doing education pods instead of sending their children back to school. He asked if it was too broad or are we okay with the way it is. Mr. Thomas indicated that the education pods tend to be in lines of 5-6 children and under the ordinance; it could be a home occupation, is it disruptive with parents dropping off their children probably not; there are not garages that are 4k-5k square feet so it is unlikely.

Mr. Perlman said with the hypotheticals and things are already might happening, home office occupations, online retail sales, pods, and all of those things are currently permitted in the main dwelling and this ordinance simply says what you can do in the main dwelling you can do in the garage and he feels like we are overthinking this all. If all these potential things are going to happen are probably already happening. Mr. Constantine agreed and the Municipal Landuse Law was amended 25 years ago for home daycare, it allows any resident of any single family home have five children that are not your own to attend a home daycare in your house plus your own children, that is anywhere in the State of New Jersey. That can be happening next door to any of us.

Ms. Hadhazy asked about the educational pods, some parents are opting to hire a teacher and asked if that counted as an employee working out of your home where the ordinance indicates you can only have up to two people that occupy the house. Mr. Thomas said that would be a violation of the ordinance. Ms. Hammond asked who enforces that. Mr. Thomas said that in most municipalities, it is the neighbors and the zoning officer would issue a violation notice.

Mr. Kluger said based on the way the ordinance is written any activity carried out for gain and this would not apply to a family bringing in a teacher to teach a pod of 4-5 children, I am carrying this out to educate my children which is different if I am a teacher bringing in outside students for me to make money on. Mr. Thomas said that he does not disagree but the question is when you begin to home school kids and creating these pods is that an activity for gain and the argument would be that it is an activity for gain because you are saving money on the cost of a private school.

Mr. Constantine said that he agreed with Mr. Kluger, going back to the accessory use criteria and is the magnitude of what you are doing subordinate to the principal use. If you're in a studio apartment with 10 children you're pushing the envelope, are we saying that learning pods in today's environment are an accessory to a residential use for thousands of people across the States. He said that he would not worry about the worst possible scenario; chances are the neighbors will ring the bell and the Borough will hear about.

Ms. Hammond asked if this could be used as a bedroom. Councilman Hale indicated that the intent is to not create an apartment in the garage and that was removed from the Ordinance, we also do not allow a toilet, kitchen, or cooking device.

Mr. Perlman said that he had a home with a garage and he does not want the garage anymore and he wants to absorb it into his home as additional living space, eliminating the accessory use and there is another section in the code that deals with that scenario. Mr. Constantine said that would be subject to the garage meeting the setback requirements, and garages being absorbed into the principal structure happens all the time.

Ms. Hadhazy asked that something be put together for best practices for use of space heaters in a garage. Councilman Hale said that they could do a public safety campaign regarding the use of space heaters, independent of this ordinance.

Ms. Hammond said that there is not requirement for heat or electricity. Mr. Brescher said that the baseline is running water; he said that it is different for rental units heat must be provided. He said that he thinks a lot of people are going to do the right thing, you will get some that will do what they want to do and that holds true even today. He spoke with the Zoning Officer and there is no issue with the way it is written in his department.

Mr. Williams said under accessory uses, item D, refers to lots, there are situations where a home is on one lot and the accessory is on another lot and asked if that should maybe say property. Mr. Constantine indicated that they would have to be in the same zone as the principal use regardless of the assemblage.

Ms. Hand said when builders come before the board we encourage them to place the garage in the back of the lot, hold them to RSIS standards, etc. and a builder comes in with plans for a garage gets approved, get permits, builds the home, builds the garage and the next day converts

that garage into a bedroom. Mr. Constantine said that they would still have to comply with the RSIS standards, whether new construction or not.

Mr. Nolan said that section E, may have a sink, electrical service, heat and/or air conditioning, but does not contain a bathroom, toilet, kitchen or cooking device and he is concerned with running pipes which means running sewer and when there are pipes and sewer it gets a lot easier to install a toilet, shower or kitchen. We need to think carefully about intensifying the use. Where it talks about home occupation there is a reference about activities carried out for gain and asked if it was necessary for gain couldn't it be for pleasure, he thinks that there should be a reference to the use being consistent with that of a single family home so as not to create a situation where it is noisy or bothersome to people. He mentioned that people are probably doing this already and the thought that people use their garages for vehicle storage only is unrealistic. Ms. Hammond said that once someone installs those items that are not permitted the zoning officer has the right to go in and shut that down. Mr. Nolan said that he would be more comfortable just not allowing the infrastructure back there eliminating the possibility of a shower, or toilet etc. and eliminating the sink or anything that requires water and sewer unless we are okay with going down that road.

Mr. Thomas indicated that with regards to density, moving your college student from the second floor bedroom to the garage does not increase density, converting to an Airbnb or rental would and that is clearly not permitted.

Mr. Millet asked if there would be a pipe/drain line limitation if you were only installing a sink in the garage, meaning you would only use a two-inch line for a sink and nothing larger would be permitted. Mr. Constantine asked Mr. Brescher what the estimated cost would be to run water and sewer. Mr. Brescher said to run water and sewer would be about \$6,000 or more. Mr. Constantine said that it a big ticket item, let someone seek a variance and now it is on public record at a public hearing for a variance and they will have lots of reasons to make cases on the bases of hardship etc. He suggested removing sink as Mr. Nolan indicated and if someone wants to do gardening or pottery, they would need to budget a trip to the Zoning Board.

Ms. Hammond indicated that we are explicitly saying that you can have sink but you cannot have a toilet, shower, kitchen, or cooking device and that it is a slippery slope but the slippery slope is people still breaking the ordinance by putting in a toilet or shower which by taking out the sink your saying we will know when someone is doing it. Mr. Nolan said that if you can have a sink as of right, you can run those pipes as of right and you do not need to approach anybody to do document what you are doing there, it is very easy to slip into something else. Mr. Brescher said that their biggest source are the neighbors, they call consistently on their neighbors about everything so he has no doubt that if someone is digging up their yard they will get a phone call to report it and we will go out and investigate.

Mr. Thomas said instead of changing the ordinance maybe there is something that could be added or looked at in terms of the building department and if the garage is going to have a sink as suggested the maximum diameter of the pipe will be whatever the that may be.

Ms. Hadhazy said that just because the allowance of a sink is in the ordinance that does not mean you do not have to get a permit if you do not already have a sink in the garage. Ms. Hammond said that what she thinks Mr. Nolan is trying to say is they will get permits for the sink and then two years later they on the sly they install a toilet and no one will know but a 1 ½" pipe for a

sink is not adequate for a toilet and that would be a way to limit the possibilities' of someone installing a toilet later on.

Mr. Brescher said that when the permit is pulled and we go out to inspect and see a 4" line going in for a sink and it would be denied and they would have to re-install the proper piping.

Ms. Hammond asked who was in favor of leaving the language as presented. All agreed to leave the language as presented.

Ms. Hammond opened the floor to the public, there being no one present public comment was closed.

It was MOVED by HAND and seconded by MILLET that the ordinance as presented is not inconsistent with the Master Plan.

ROLL CALL: Ayes – Brescher, Hadhazy, Hale, Hand, Kluger, Millet, Nolan, Williams,
Hammond
Nays - None

There being nine (9) ayes and no nays, the Ordinance as presented is not inconsistent with the Master Plan.

Mr. Roger indicated if agreeable, instead of doing a resolution he recommended sending a letter to the Mayor and Borough Council based on tonight's conversation and that the ordinance is not inconsistent with the Master Plan. All agreed.

Mr. Williams asked if the application from JSM was deemed complete. Mr. Constantine indicated that the application has not been deemed complete, and plan to meet with them. Mr. Constantine updated everyone on the Cleveland Avenue application as well.

Correspondence and reports.

Zoning/Building Officer report – Scott - None

Rehabilitation Screening Committee report – Kim - None

Public comment on any item not on the agenda - None

Ms. Hammond opened the meeting for public discussion and called upon all those wishing to speak to identify themselves. There being no one, Ms. Hammond closed public discussion.

Adjournment

There was a motion to adjourn from WILLIAMS and a second by MILLET at 9:06 pm the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago
Board Clerk